Single Bench

(3)

IN THE HIGH COURT OF CHHATISGARH AT BILASPUR (C.G.)

WP (C) 5270 -2006

Single Bench

Petitioners :

1(A) **SMT. RAHMAT BI**
Aged about 60 years
W/o late Gulam Kadar.

2(B) **KARIMUDDIN**
Aged about 45 years
S/o Late Gulam Kadar.

3(C) **ABDUL RAHMAN**
aged about 40 years
S/o Late Gulam Kadar

4(D) **SUBRATI**
aged about 37 years
S/o Late Gulam Kadar

5(E) **ABDUL GANI**
aged about 30 years,
S/o Late Gulam Kadar

6(F) **MOHD. ISMAIL**
aged about 30 years
S/o Late Gulam Kadar

7(G) **MOHD. YUSUF**
aged about 28 years
S/o Late Gulam Kadar

All petitioners A to G legal heirs of
Late Gulam Kadar

Contd.....2

P.R. No. 5181/06
Presented by Shri V. S. Tamaskar
dated 18/9/06

RECEIVED-COPY
18/9/06
CLERK to A. G. BILASPUR

NOTARY * GOVT. OF C.G R.N. C.G

8-2 **NOOR MOHAMMAD**
Aged about 50 years
S/o Late Gulam Kadar
All residents of Shanichari Bazar Road,
Bhoipara, Durg (C.G.)

:: **V E R S U S** ::

Respondents :

1. **MUNICIPAL CORPORATION DURG**
Through – Commissioner
Municipal Corporation
DURG(C.G.)

2. **HARSHVEER SINGH**
Aged about 39 years,
S/o Late Dr. Mahavir Singh Gupta

3. **YASHVEER SINGH**
Aged about 35 years
S/o Late Dr. Mahavir Singh Gupta

4. **JAYVER SINGH**
Aged about 31 years
S/o Late Dr. Mahavir Singh Gupta

All residents of : Shiv Para,
Near Chandimandir,
DURG, (C.G.)

5. STATE OF CHHATTISGARH
Through : Collector,
DURG (C.G.)

NOTARY Govt. of C.G. R.N. C.G. Rajrao Goverdhan Durg, C.G. INDIA

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(5)

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PETITION UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA.

60

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..WP(C)5270/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

09.10.2006

Shri V.G. Tamaskar, Counsel for the petitioners.

Heard on admission.

Order dictated as follows :

ORAL ORDER
(09.10.2006)

Sunil Kumar Sinha, J.

This petition has been directed against the impugned order dated 6/9/2006, by which, an application under Order 7 Rule 11, filed by the defendants, has been dismissed by the trial Court.

In view of the new amendment brought in CPC, the order passed by the trial Court still remains an order revisable.

It has been held by the Apex Court in the matter of ***Shiv Shakti Cooperative Housing Society, Nagpur Vs. Swaraj Developers and others, reported in (2003) 6 SCC, page 659*** that a plain reading of Section 115 as it stands makes it clear that the stress is on the question whether the order in favour of the party applying for revision would have given finality to suit or other proceeding. If the answer is "yes" then the revision is maintainable. But on the contrary, if the answer is "no" then the revision is not maintainable.

In view of the above, if in the present case, the order is passed in favour of the petitioners, it would certainly lead to

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... WP(C) 5270/06 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

finality of the proceedings and further for the said reason, against such orders, a revision would be maintainable.

For the reasons stated above, this petition filed under Section 227 of the Constitution of India is dismissed.

However, a liberty is granted to the petitioners to file a duly constituted revision against the impugned order.

Office is directed to return the certified copy of the impugned order and other documents as per demand of the counsel for the petitioners, if it is demanded within a period of 3 days from today.

Sd/-
Sunil Kumar Sinha
Judge

P.T.O.